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MONTANA LEGISLATIVE HISTORY

Chapter 485 19 87

Bill H 78 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	1-13	✓ C	Hearing Date(s)	3-13	~~✓~~ C
	2-12	✓ C		3-19	✓ C
	2-19	✓ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	_____	___ C			

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

VEHICLE REREGISTRATION

1/05 INTRODUCED
1/05 REFERRED TO HIGHWAYS & TRANSPORTATION
1/05 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
1/13 HEARING
2/17 TABLED IN COMMITTEE

HB 77 INTRODUCED BY BROWN, J.
ALLOWS PATERNITY ACTION BY STATE AGENCY UNTIL CHILD BECOMES 21 YEARS OF AGE
BY REQUEST OF DEPARTMENT OF REVENUE

1/05 INTRODUCED
1/05 REFERRED TO JUDICIARY
1/05 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
1/13 HEARING
1/14 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/16 2ND READING PASSED 88 10
1/17 3RD READING PASSED 86 10

TRANSMITTED TO SENATE
1/21 REFERRED TO JUDICIARY
2/12 HEARING
3/05 COMMITTEE REPORT--BILL CONCURRED
3/09 2ND READING CONCURRED 50 0
3/11 3RD READING CONCURRED 48 2

RETURNED TO HOUSE
3/14 SIGNED BY SPEAKER
3/14 SIGNED BY PRESIDENT

3/16 TRANSMITTED TO GOVERNOR
3/19 SIGNED BY GOVERNOR
CHAPTER NUMBER 129 EFFECTIVE DATE: 3/19/87

HB 78 INTRODUCED BY BROWN, J.
PERMIT ATTACHMENT OR GARNISHMENT OF WORKERS' COMPENSATION TO PAY CHILD SUPPORT
BY REQUEST OF DEPARTMENT OF REVENUE

1/05 INTRODUCED
1/05 REFERRED TO JUDICIARY
1/05 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
1/13 HEARING
2/19 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/21 2ND READING PASSED 90 3
2/23 3RD READING PASSED 94 4

TRANSMITTED TO SENATE
3/02 REFERRED TO JUDICIARY
3/13 HEARING
3/20 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/24 2ND READING CONCURRED 49 0
3/26 3RD READING CONCURRED 50 0

RETURNED TO HOUSE WITH AMENDMENTS
4/07 2ND READING AMENDMENTS CONCURRED 84 6
4/08 3RD READING AMENDMENTS CONCURRED 84 6
4/10 SIGNED BY SPEAKER
4/10 SIGNED BY PRESIDENT

4/10 TRANSMITTED TO GOVERNOR
4/15 SIGNED BY GOVERNOR
CHAPTER NUMBER 485 EFFECTIVE DATE: 10/01/87

HB 79 INTRODUCED BY BROWN, J.
ALLOW DEPARTMENT OF REVENUE TO REQUIRE HEALTH COVERAGE WHEN CHILD SUPPORT IS BEING ENFORCED
BY REQUEST OF DEPARTMENT OF REVENUE

1/05 INTRODUCED
1/05 REFERRED TO JUDICIARY
1/05 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
1/13 HEARING
1/23 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/26 2ND READING PASSED 92 6
1/27 3RD READING PASSED 93 6

TRANSMITTED TO SENATE
1/28 REFERRED TO JUDICIARY
2/12 HEARING
3/05 COMMITTEE REPORT--BILL CONCURRED
3/09 2ND READING CONCURRED 50 0
3/11 3RD READING CONCURRED 47 3

RETURNED TO HOUSE
3/14 SIGNED BY SPEAKER
3/14 SIGNED BY PRESIDENT

3/16 TRANSMITTED TO GOVERNOR
3/19 SIGNED BY GOVERNOR
CHAPTER NUMBER 130 EFFECTIVE DATE: 10/01/87

HB 80 INTRODUCED BY BROWN, J.
NEWSPAPER CARRIER OR CORRESPONDENT NEED NOT HAVE WORKERS' COMPENSATION

1/05 INTRODUCED
1/05 REFERRED TO BUSINESS & LABOR
1/19 HEARING
1/22 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/24 2ND READING PASSED 85 10
1/26 3RD READING PASSED 71 29

TRANSMITTED TO SENATE
1/27 REFERRED TO BUSINESS & INDUSTRY
2/10 HEARING
2/14 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
2/17 2ND READING CONCURRED 47 3
2/19 3RD READING CONCURRED 43 7

RETURNED TO HOUSE WITH AMENDMENTS
3/11 2ND READING AMENDMENTS CONCURRED 81 10
3/12 3RD READING AMENDMENTS CONCURRED 86 11
3/16 SIGNED BY SPEAKER
3/17 SIGNED BY PRESIDENT

3/18 TRANSMITTED TO GOVERNOR
3/22 SIGNED BY GOVERNOR
CHAPTER NUMBER 148 EFFECTIVE DATE: 10/01/87

HB 81 INTRODUCED BY BROWN, J.
CLARIFY THAT ADMINISTRATIVE SUPPORT ORDER OF

HOUSE BILL NO. 78

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE ATTACHMENT OR GARNISHMENT OF WORKERS' COMPENSATION BENEFITS FOR THE PAYMENT OF CERTAIN CHILD SUPPORT OBLIGATIONS; AND AMENDING SECTION 39-71-743, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-743, MCA, is amended to read:

"39-71-743. Assignment or attachment of payments. (1) No payments under this chapter shall be assignable, subject to attachment or garnishment, or be held liable in any way for debts, except:

(a) as provided in 71-3-1118~~;~~ or

(b) to defray a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever:

(i) the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law; and

(ii) the order is being enforced by the department of revenue or other public agency pursuant to Title IV-D of the federal Social Security Act.

LC 0072/01

(2) Payments under this section are subject to assignment, attachment, or garnishment for child support as follows:

(a) The compensation recipient is entitled to the first $110 of every weekly payment.

(b) The Title IV-D agency under the federal Social Security Act is entitled to the remainder of each weekly payment up to a maximum of 50% of the total payment.

(c) The Title IV-D agency under the federal Social Security Act is entitled to a maximum of 50% of any lump-sum settlement payment.

~~(2)~~(3) After determination that the claim is covered under the Workers' Compensation Act or Occupational Disease Act of Montana, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. No fee or charge shall be payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue or the department of labor to make rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-

INTRODUCED BILL
HB-78

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB078 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act to permit the attachment or garnishment of Workers' Compensation benefits for the payments of certain child support obligations; and amending Section 39-71-743, MCA.

ASSUMPTIONS:
A. Current staff will be able to absorb the increased workload.
B. 5% of compensation cases will require a payment to child support.
C. The division's computerized compensation check-writing system will be operational by 7/1/87.
D. The Statement of Benefits form and the computer program which prints the form must be changed.
E. The AFDC match rate is 66.38% federal funds.

FISCAL IMPACT:
Expenditures:
Workers Compensation Division:

	FY88	
	Current Law	Proposed Law
Data processing development costs (one time)	$ 0	$ 2,720

Funding Source: Workers' Compensation Fund = $2,720

Revenues:
Under the proposed law, the money received by the garnishment of the claim would be distributed to the general fund and federal fund in the same ratio as the AFDC claim is paid.

The Department of Revenue estimates $20,000 to be returned per year under the proposed law. The breakout of the $20,000 would be 66.38% or $13,276 federal funds and 33.62% or $6,724 general fund.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:
N/A

David L. Hunter DATE 1/10/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

J. Brown DATE 1/12/87
JAN BROWN, PRIMARY SPONSOR

Fiscal Note for HB078, as introduced.

HB 78

Form CS-32
Rev. 1985

STATUS SHEET

50TH LEGISLATIVE SESSION

JUDICIARY COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURREI IN AS AMENDED DATE
13	12/29/87	1/12/87	1/12/87			1/12/87					
19	12/29/87	1/12/87	1/14/87			1/14/87					
21	12/29/87	1/7/87	1/9/87			1/9/87					
37	12/29/87	1/8/87	1/9/87			1/9/87					
42	12/29/87	1/9/87	1/9/87			1/9/87					
45	12/29/87	1/7/87	tabled 2/12/87								
53	1/2/87	1/9/87	1/9/87	1/9/87							
57	1/87	2/17/87 2/5/87	tabled 2/20/87								
70	1/5/87	1/15/87	2/2/87				2/2/87				
72	1/5/87	1/16/87	1/23/87		1/23/87						
73	1/5/87	1/14/87	1/22/87			1/22/87					
77	1/5/87	1/13/87	1/13/87			1/13/87					
78	1/5/87	1/13/87	tabled 2/12/87			2/19/87					
79	1/5/87	1/13/87	1/23/87			1/23/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

sufficient and the Federal Government is not concerned with the payment issue per se.

Rep. Cobb questioned the two year statute of limitations by asking Mr. Truglio if he cared what was done with the statute in terms of holding the obligator responsible for a set amount of payment. Mr. Truglio said the government did not care what year or amount was established.

Rep. Mercer asked Mr. Truglio what the purpose was behind the Federal Government telling us what to do. Mr. Truglio explained the purpose and the concern of the department was the child. The child needs to have paternity established for many reasons. One reason is in case the father should die. If the father is a veteran, there are all kinds of governmental benefits the child would accrue. It is critical when a case comes to the agency, that paternity be pursued to insure the child's future rights are protected.

Rep. Jan Brown closed the hearing on HB #77.

HOUSE BILL NO. 78: Rep. Jan Brown, District No. 46, stated this bill permits the attachment of Workers' Compensation benefits for the payment of child support obligations.

PROPONENTS: John McRae, Department of Child Support Enforcement Program, explained this bill is probably one of the most important bills for the department in terms of financial aspects. He stated since 1985, the department has identified 52 cases where children have received A.F.D.C. payments and the fathers were receiving, at the same time, Workmans' Compensation benefits. In these 52 cases, the state had paid out over $170,000.00 worth of benefits. These were paid without any ability to recoup the benefits from the father. The 52 cases referred to, have been tracted as a pilot suggestion. Out of all the cases, this is money children are being deprived of and the taxpayers of the state of Montana are being deprived of. There is a real distinction between a married and a divorced parent. He stated the taxpayers of Montana are not only funding, in part, the Workmans' Compensation program, but also, in part, are funding the A.F.D.C. programs. Since the intent of Workmans' Compensation is to provide for children, and the A.F.D.C. is to provide for children, we are duplicating the benefits. Not all the funding is necessarily going to those children. This bill will allow the change in Workmans' Compensation money to be attached, or garnished, for the purpose of child support.

Sandy Chaney, Women's Lobbyist Fund, stated her support. (See Exhibit B-HB #77).

OPPONENTS: George Wood, Executive Secretary of the Montana Self Insurers Association, stated he did not object to the philosophy of the bill, but the mechanics give him difficulty. He explained the maximum amount currently for a man injured and drawing benefits, is $299.00 a week. He has to make $450.00 a week in wages to qualify for this amount. Under this bill, the man's income would be reduced to $149.50 a week which is the amount he would have to live on. Mr. Wood stated there would be no objections to this if we were required to pay to the Department of Revenue, or to the court. We could then pay the check to them and they could disperse the money. Otherwise, we become a collection agency. He also stated that Section C of the bill states the agency is entitled to a maximum of 50% of any lump sum and we have no way of knowing how much of the 50% is due to them. It is a matter of mechanics. That is, if we were to pay the amount, even the lump sum, the other assignments due, under the act, are due from the lump sum and not from the current weekly benefits.

No further opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 78: Rep. Gould asked Mr. McRae what was the difference between this bill and the bill that was killed last session. He stated this bill is a little more detailed than the last provision. This bill provides a floor and a ceiling.

Rep. Rapp-Svrcek asked Mr. McRae if a person was entitled to a hearing before the agency, who would garnish his or her wages. Mr. McRae answered in the Income Withholding Act, passed last legislature, the individual is sent a notice informing him of the alleged amount due in current support and the amount of arrearages. Based on that information, he has the opportunity to contest, in a hearing, the accuracy of the amount.

Rep. Cobb asked Mr. McRae if any of the lump-sum money was not used up, would it be given back to the worker. Mr. McRae stated the garnishment would be for the amount due in arrearages.

Rep. Eudaily had a question regarding the fiscal note. He asked Mr. McRae if part of the garnishment money would be taken out and put into the federal fund and part of it would be put into the general fund. Mr. McRae referred the question to Mr. Harrington who is the Chief of the Investigation Enforcement Bureau of the Department of Revenue. Mr. Harrington stated the money received from A.F.D.C. is paid back in the same proportion in which the initial A.F.D.C. dollar went out. Rep. Eudaily then asked if this would go back into the federal fund account. Mr. Harrington stated

once the money is collected, it is distributed to S.R.S. and eventually put back into the A.F.D.C. pool, then distributed.

Rep. Jan Brown stated, in closing, the department added a technical amendment on page 2, line 1. (Exhibit A). The words "wage loss compensation" were added. She then closed the hearing on HB #78.

HOUSE BILL NO. 79: Rep. Jan Brown, District No. 46, stated House Bill No. 79 authorizes the Department of Revenue to establish and enforce health insurance coverage. It will help achieve cost effectiveness and compliance with the federal standards. The administrative process will then be able to work faster. A penalty of $100.00 has been put in because it will give the department a tool for enforcement. He explained the parent will be charged for each month he does not maintain the insurance. The penalty fine will go back into the general fund to replace any Medicaid expenditures. The obligated parent will have some protections in the form of a hearing to show he did maintain the insurance. He emphasized the primary purpose is not to penalize but to get compliance with the insurance orders.

Sandy Chaney, Women's Lobbyist Fund, spoke in support of this bill. She stated that lack of child support places women on welfare; lack of child support forces female heads-of-families into poverty. She added that an additional responsibility in the care of children is health insurance. The cost of providing adequate health insurance coverage, however, is prohibitive for women with only poverty-level incomes. HB #79 will help to guarantee needed health insurance for children in child support cases.

Wilbur Rehmann, representing himself, stated he is a single parent and he supports HB #77, 78 and 79.

No further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 79: Rep. Addy questioned if this bill was in addition to all the other bills. He felt garnishing the wages, attaching the Workers' Compensation benefits and requiring health insurance is not balancing the means of the families. Mr. McRea informed Rep. Addy that health insurance requirements are in current law. The law states when insurance is reasonably available to the person through his employer or an organization, that is where the requirement is based.

Rep. Mercer asked Mr. Truglio if we are required by the federal government to mandate the health insurance as provided in HB #79. Mr. Truglio answered "yes".

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 13, 1987

NAME	PRESENT	ABSENT	EXCUSED
EARL LORY (R)	✓		
JOHN MERCER (R)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
TOM BULGER (D)	✓		
JOHN COBB (R)	✓		
FRITZ DAILY (D)	✓		
PAULA DARKO (D)	✓		
RALPH EUDAILY (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
ED GRADY (R)		✓	✓
TOM HANNAH (R)	✓		
VERNON KELLER (R)	✓		
AL MYERS (R)	✓		
JOAN MILES (D)	✓		
PAUL RAPP-SVRCEK (D)	✓		
BILL STRIZICH (D)	✓		

CS-30

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

January 13, 1987

EXHIBIT B
DATE 1-13-87
HB #77, 78 & 79

Testimony in support of House bills 77, 78, and 79

Mr. Chairman and members of the House Judiciary Committee:

My name is Sandy Chaney and I am here today on behalf of the Women's Lobbyist Fund to speak in support of House bills 77, 78, and 79. I ask that you consider my testimony on these three bills at this time. Women's Lobbyist Fund views these bills to be a laudable effort to combat the serious problem of non-payment of child support orders. Lack of child support places women on welfare; lack of child support forces female-heads of families into poverty. (Ms. , June, 1985)

In 1985 Montana passed legislation enforcing the collection of child support payments. As a result, the amount of court ordered payments increased. (Great Falls Tribune, 6/13/86) Nevertheless, the inability to collect child support still plagues many of Montana's single-parent families, the majority of which are headed by women. According to the latest census data for Montana, 20,117 households in our state are headed by females, although not all of these cases can be attributed to divorce alone.

Divorce, however, is one factor that increases the number of female-headed families. National statistics reveal that ninety percent of the time, custody is granted to the mother. (Newsweek, "Divorce American Style," 1/10/83) With this increased responsibility to the child(ren) is a decreased standard of living. In the first year after divorce, the woman's standard of living--and consequently the children's--plummets 73%; the man's standard of living rises 42%. (The Divorce Revolution, Lenore Weitzman, 1985)

Exacerbating the woman's disparaging financial situation is her inability to collect child support. The court orders child support in only 59.1% of the cases involving children. Of these, approximately 23% obtain partial payment, and 28% recieve no payment at all. (Capitol: Women, "Poverty: the effects of nonsupport," 10/83. A newsletter of the House Committee on Constitutional Revision and Women's Rights. For more conservative figures, see Working Mother, 2/83)

As is the case nationally, in Montana, single women who head the household frequently find themselves in a distressing financial situation. The latest census statistics for Montana report that women earn 53¢ for every dollar that a man earns. Furthermore, the median income of female-headed households with children under six is a mere $4,931. Compare this figure with the poverty level of a three-person family which is $5,844.

Clearly women as heads of the family cannot alone bear the responsibility of meeting the financial needs of the children. Responsibility must be shared by both parents. Unfortunately men, who are most often in a better financial position, fail to contribute their fair share. House bills 77 and 78 would help the state to enforce child support payments. The children, for whom the allowance is designed, will benefit.

An additional responsibility in the care of children is health insurance. The cost of providing adequate health insurance coverage, however, is prohibitive for women with only poverty-level incomes. In Montana approximately 38% of all civilian workers receive employer-sponsored health coverage--the second lowest in the nation!! (Employee Benefit Research Institute Current Population Survey, 5/83) Women, many of them in low-paying jobs that offer no medical benefits, cannot afford health insurance for their children. House bill 79 will help to guarantee needed health insurance for children in child support cases. House bills 77, 78, and 79 are designed to help the state enforce child support obligations. Women's Lobbyist Fund urges you to pass House Bills 77, 78, and 79.

EXHIBIT A
DATE 1-13-87
HB # 78

AMENDMENTS TO HB 78, INTRODUCED COPY, INTRODUCED BY JAN BROWN, PROPOSED BY JOHN McRAE.

1. Page 2, line 1.
   Following: "(2)"
   Insert: "Wage loss compensation"

2. Page 2, line 1.
   Following: "Wage loss compensation"
   Strike: "Payments"
   Insert: "payments"

in writing before it goes to the jury. Question was called and a roll call vote was taken. The motion CARRIED 10-8. (See Roll Call Vote Attached). HB 262, DO PASS.

ACTION ON HOUSE BILL NO. 45:

Rep. Darko moved that HB 45 be tabled. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 45, TABLED.

ACTION ON HOUSE BILL NO. 78:

Rep. Mercer moved that HB 78 be tabled. Rep. Addy called for a roll call vote. The motion FAILED 8-9. (See Roll Call Vote Attached). Rep. Giacometto moved that HB 78, DO PASS. He stated that if people have children then they have an obligation to take care of them. Rep. Miles stated that we should go back to the lump sum and Rep. Addy's amendment because it makes it a good bill. Rep. Hannah moved a substitute motion that HB 78 be tabled and called for a roll call vote. The motion CARRIED 9-8. (See Roll Call Vote Attached).

EXECUTIVE SESSION WAS CLOSED BY CHAIRMAN LORY.

HOUSE BILL NO. 474, Rep. Moore, District No. 65, stated that this bill gives no more or no less rights to corporations than existing law and it simply codifies existing law. She pointed out that the majority of Montana Corporations would not be affected by this legislation because they pay their employees and they do not try to hide behind the corporate shield. HB 474 will only effect fly-by-night companies and will help pierce those corporate shields for those kinds of companies. This bill will not impact people who never intend to be major companies.

PROPONENTS:

GENE FENDERSON, Montana State Building and Construction Council, stated that this bill is good legislation and urged its passage. There were no further proponents, no opponents and no questions. Rep. Moore closed the hearing on HB 474.

HOUSE BILL NO. 256, Rep. Pistoria, District No. 36, sponsor, stated that this bill increases certain filing fees in civil cases, creating new filing fees, requiring the fee increases and new fees to be used to fund District Court operations. He stated that this bill requires that only the users will have to pay and not the taxpayers. He submitted (Exhibit A) as a proposed fee increase schedule. (Exhibit B) was submitted showing various states and what they charge for

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE Feb. 12, 1987 BILL NO. 78 TIME 10:30 A.M.

NAME	EXCUSED	AYE	NAY
JOHN MERCER		✓	
LEO GIACOMETTO			✓
BUDD GOULD		✓	
AL MEYERS		✓	
JOHN COBB		✓	
ED GRADY		✓	
PAUL RAPP-SVRCEK			✓
VERNON KELLER			✓
RALPH EUDAILY			✓
TOM BULGER			✓
JOAN MILES			✓
FRITZ DAILY			✓
TOM HANNAH			✓
BILL STRIZICH		✓	
PAULA DARKO			✓
KELLY ADDY		✓	
DAVE BROWN			
EARL LORY		✓	

TALLY 8 - 9

Secretary

Earl Lory
Chairman

MOTION: TABLE

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 2-12-87 BILL NO. 78 TIME 10:40

NAME	EXCUSED	AYE	NAY
JOHN MERCER		✓	
LEO GIACOMETTO			✓
BUDD GOULD		✓	
AL MEYERS		✓	
JOHN COBB		✓	
ED GRADY		✓	
PAUL RAPP-SVRCEK			✓
VERNON KELLER			✓
RALPH EUDAILY		✓	
TOM BULGER			✓
JOAN MILES			✓
FRITZ DAILY			✓
TOM HANNAH		✓	
BILL STRIZICH			✓
PAULA DARKO			✓
KELLY ADDY		✓	
DAVE BROWN	✓		
EARL LORY		✓	

TALLY 9 8

Secretary

Chairman

MOTION: Table

parent". Rep. Mercer asked Rep. Addy if someone commits the offense of visitation interference but has the consent to take the child out of the state, someone would only be guilty of a misdemeanor. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Darko moved that HB 284 DO PASS AS AMENDED. Question was called and voice vote was taken. The motion CARRIED unanimously. HB 284 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 78:

Rep. Darko moved that HB 78 be taken off the table. She explained the amendments that state that the child enforcement bureau can attach only the part that is designated as a lump-sum settlement. Rep. Gould stated that he opposes the motion. He felt that this bill will not accomplish anything. Rep. Miles commented that she supports the motion because the bill addresses the one time when the worker is given a lump-sum of money that includes money for back child support and that money should go to the child. Question was called on the motion to move HB 78 off the table. The motion CARRIED 11-6. Rep. Darko moved amendments. The motion CARRIED unanimously. (See Amendments Attached). Rep. Darko moved that HB 78 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED 10-5 with Reps. Cobb, Meyers, Addy, Mercer and Grady dissenting. HB 78 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 696:

Rep. Hannah moved that HB 696 DO PASS. Rep. Addy stated that we must do something with the Human Rights Commission. Rep. Hannah pointed out that we have a situation where the HRC will be forced to be more careful. Rep. Daily stated that he supports the bill and what Rep. Hannah has said. Rep. Miles explained that trial de novo's should be allowed for JP courts because JP courts are not a court of record. She stated that this is punitive legislation because there are a few people who do not like the decisions that come out of the HRC. Rep. Mercer pointed out that there is a record in JP court but the JP is an elected independent official and the HRC is not. Rep. Gould stated that this bill lends fairness and it is a good bill. Question was called and a voice vote was taken. The motion CARRIED 10-5. HB 696 DO PASS.

ACTION ON HOUSE BILL NO. 167:

Rep. Mercer moved that HB 167 DO PASS. He moved the amendments proposed by the subcommittee. Discussion followed on the amendments and he explained them. Question was called and a voice vote was taken. The motion CARRIED unanimously.

STANDING COMMITTEE REPORT

FEBRUARY 19, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 78

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Chairman

1. Title, line 6.
Following: "COMPENSATION"
Insert: "LUMP-SUM"

2. Page 2, line 1.
Strike: "payments"
Insert: "A lump-sum payment"
Strike: "section are"
Insert: "chapter is"

3. Page 2, lines 2 through 11.
Strike: "as" on line 2 through "payment" on line 11
Insert: "by the Title IV-D agency under the federal Social Security Act in the amount that part of a lump-sum is specifically granted for the payment of past-due child support"

ARB76a/JM/JM2

FIRST reading copy (WHITE)
color

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325 DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-MARY HUBER

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0013	1/21	2/05		CONCUR AS AMENDED		3/3
MERCER, JOHN			EXEMPT IN BANKRUPTCY ACTION ALL PROPERTY OF INDIVIDUAL EXEMPT UNDER MCA			
HB0019	1/24	2/05		CONCUR AS AMENDED		3/9
MERCER, JOHN			GENERAL REVISION OF LAWS RELATING TO PROPERTY EXEMPT FROM EXECUTION			
HB0021	1/21	2/05		CONCUR AS AMENDED		3/4
FRITZ, HARRY			RAISE LEGAL DRINKING AGE FROM 19 TO 21; PROVIDE EFFECTIVE DATES			
HB0037	1/21	2/10		CONCUR		3/5
BRADLEY, DOROTHY			DEFENDANT'S RECORD EXPUNGED UPON DISMISSAL OF CHARGES			
HB0042	1/21	3/03		CONCUR AS AMENDED		3/3
COBB, JOHN			CLARIFY LEGAL STANDARD GOVERNING LANDOWNER LIABILITY			
HB0053	1/21	3/03		CONCUR		3/11
EUDAILY, RALPH			GENERALLY REVISE MCA			
HB0058	1/27	3/04		CONCUR		3/4
KEENAN, NANCY			LET PSYCHOLOGISTS EXAMINE PERSONS WHEN MENTAL DEFECT IS A CRIMINAL ISSUE			
HB0065	1/21	3/04		CONCUR		3/4
PECK, RAY			SERVING OUT TRAFFIC FINES AT $10 PER DAY			
HB0073	3/03			CONCUR AS AMENDED		3/21
BRADLEY, DOROTHY			APPLICATION OF MOTOR VEHICLE LAWS TO MINORS -- EXCEPT PENALTY IMPOSITION			
HB0077	1/21	2/12		CONCUR		3/4
BROWN, JAN			ALLOWS PATERNITY ACTION BY STATE AGENCY UNTIL CHILD BECOMES 21 YEARS OF AGE			
HB0078	3/02	3/13		CONCUR AS AMENDED		3/19
BROWN, JAN			PERMIT ATTACHMENT OR GARNISHMENT OF WORKERS' COMP. TO PAY CHILD SUPPORT			

child support is used all the time by both parents to cause trouble. She said child support is the child's right, not hers. She said the legislature surely doesn't space out taxes, so why let these child support offenders get away with it.

DISCUSSION ON HB 800: Senator Pinsoneault asked Representative Rapp-Svrcek if he really believed that the constituent really did forget to give child support for one month. The Representative answered yes. Senator Pinsoneault questioned if the Representative makes a bill on every constituent's whim. There was no reply.

Senator Beck asked if it takes some time to garnish a man's wages. Representative Rapp-Svrcek replied that it does take time and a $5 service charge each time it happens.

Ms. Detes said that each time she doesn't receive child support, it hurts her credit with people.

Senator Halligan asked how up to date is the department with garnished wages. John McRae, Child Support Program, replied that the department is right on top of each one right now. He said as soon as there is a late payment, we take steps to garnish the wages after the notice has been received by the child supporter.

Representative Rapp Svrcek explained in closing that the bill only gives one chance to let this happen, and then the procedures will begin.

CONSIDERATION OF HB 78: Representative Jan Brown of Helena introduced HB 78 to the committee (see Exhibit 3).

PROPONENTS: John McRae, Child Support Program, stated that if a worker is married and is injured, and workmen's comp. pays for it, that worker must share those benefits with his family. He said when the worker is divorced and is injured, he doesn't have to share those benefits with the family, which is no longer living with him. He felt this was unfair to the ex-wife and the children, which usually don't do as well as the ex-husband does financially after a divorce. He said there are 52 cases like this in Montana right now. He said these fathers that are getting workmens' comp. and are not paying child support are being double funded.

OPPONENTS: Noel Larrivee, representing himself, said he did not agree with the House on allowing the lump sum payment from workmens' comp. also include past missed child support cases.

DISCUSSION ON HB 78: Senator Mazurek asked what this bill has to do with court operations. Mr. Larrivee said the bill just brings in more litigation problems in the child support area.

Senator Beck inquired why the bill ran into trouble in the House. Representative Jan Brown stated that some people in the House did not agree that workmens' comp. benefits go toward the family in a statute, but just the injuried worker.

Senator Mazurek said the bill would give families that have one parent paying child support a big check at one time, but would not help the family on a regular basis.

Representative Brown closed on the bill.

CONSIDERATION ON HB 605: Representative Jan Brown from Helena presented the bill to the committee (see Exhibit 4).

PROPONENTS: Norma Harris, SRS, explained every section of the bill (see Exhibit 5).

Steve Waldron, Mental Health Centers, supported the bill.

Noel Larrivee, representing himself, said the bill will not have an impact on the confidentiality of the system at all.

OPPONENTS: None.

DISCUSSION ON HB 605: Senator Halligan asked if there is an attorney for the non custodial parent, does that attorney have access to this information that is in this bill. Ms. Harris said the privilege doesn't extend to attorneys' of the non custodial parent.

Representative Brown closed on the bill.

CONSIDERATION OF HB 188: Representative Dorothy Bradley of Bozeman introduced HB 188 (see Exhibit 6).

PROPONENTS: John Madson, SRS, supported the bill.

OPPONENTS: None

DISCUSSION ON HB 188: None

Representative Bradley closed.

EXECUTIVE ACTION:

ACTION ON HB 605: Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED.

DATE March 13th

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Bill Hamilton	Dept of Rev	HB78	✓	
John McRae	CHILD SUPPORT PROGRAM	HB78	✓	
Nancy Harrison	Self	HJR13	✓	
Dennis Shaberg	Dept of Rev C&E	HB78	✓	
Norma Harris	SRS	AB605	—	
Walt Dussin	Self	HJR13		✓
Steve Waldron	MRCCA Part 1 Health centers	HB605	X	
Sandy Chaney	Womens Lobbyist Fund	HB 78	X	
		HJR 13	X	
Donna Swanke	Bob Gilbert	—		

(Please leave prepared statement with Secretary)

SENATE JUDICIARY
EXHIBIT NO. 3
DATE March 13, 1991
BILL NO. HB 78

SUMMARY OF HB78 (J. BROWN)
(Prepared by Senate Judiciary Committee staff)

HB78 is by request of the Department of Revenue and amends the law relating to attachment or garnishment of Workers' Comp benefits. **This bill** allows attachment or garnishment of Workers' Comp benefits for the payment of certain child support obligations. **Under current law,** Workers' Comp benefits are not subject to attachment or garnishment, except that payments for medical or hospital services are attachable under the provisions relating to liens of physicians, nurses, and hospitals in personal injury claims (section 71-3-1118).

Workers' Comp payments can be of two types: lump-sum or installment and child support obligations can be of two types: current or past-due. **As originally drafted,** this bill would have allowed attachment or garnishment of either lump-sum or installment type payments for current or past-due child support payments. The House amended the bill in an apparent attempt to make its provisions apply only to lump-sum benefits. As originally drafted, the attachment of installment benefits was limited to an amount above $110 up to a maximum of 50% of the installment payment. As amended by the House, the limitations in subsection (2) limit attachment of lump-sum payments to attachment for past-due child support and for only that amount designated as child support.

COMMENTS: The Department of Revenue has brought to my attention that the House amendments (besides being difficult to understand) do not really accomplish what was intended by the House. The House apparently intended to permit attachment or garnishment of lump-sum benefits (for current as well as past-due support) but not permit attachment or garnishment of installment benefits. But what the House amendments actually do is permit attachment or garnishment of lump-sum benefits for past-due child support only (not current) and permit attachment or garnishment of installment benefits without limitation. The Department will offer amendments to correct the problem.

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so if a lawyer wins the case, they get their cut from the defendant, and on top of that, they get a cut from the state. Mr. Ochenski thought it cost the state too much.

DISCUSSION ON HOUSE BILL 790: Senator Mazurek asked if other states pay for attorney fees out of the self-insurance pool. Rep. Rehberg said they do.

Senator Crippen asked if this bill is for non-profit and profit organizations both. Mr. Ochenski said it is for both, in his eyes.

Senator Blaylock called the bill legal socialism.

George Ochenski said his group should have equal legal help to go up against big corporations that are against environmentalists.

Rep. Rehberg responded to Mr. Ochenski's comment on how he felt his non-profit group was entitled to this bill. Rep. Rehberg said he limited his bill to small business so he would not have to deal with non-profit people.

Mr. Johnson stated many times small businesses don't know where to turn to when it comes to paying attorney fees.

Mr. Baker clarified that under the federal law, non-profit groups are included under a similar statute.

Rep. Rehberg closed the hearing on HB 790.

ACTION ON HOUSE BILL 78: Noel Larmie and John McGray gave the committee amendments to the bill and said they support table guidelines on child support. (Exhibit 3)

Senator Halligan asked how this can comply with federal when it takes away so much of a person's lump sum pay. Ms. Lane was not sure how the bill worked into the federal.

Senator Mazurek said the bill will not prevent the parent living with the child from using the child support lump sum on other things.

Senator Beck asked how one calculates the lump sum payments if the supporting parent is currently up to date with payments. Ms. Lane quite sure.

Senator Halligan moved the amendments.

Senator Brown distributed a letter from James Bartlett, an attorney in Kalispell, which stated the bill will allow mothers who are not on welfare to intercept these lump sum payments. (Exhibit 4)

Senator Mazurek did not agree with the idea that all mothers could be under this bill.

Senator Halligan added to his motion, all departments can use this bill, and not just the Dept. of Revenue. The motion carried.

Senator Halligan moved House Bill 78 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 495: Written testimony was given to the committee by Linda McNiel and Mike Salvagni. (Exhibit 5) The committee waited on action on HB 495.

ACTION ON HOUSE BILL 679: Valencia Lane explained that HB 740, if passed, would make this bill's percentage of 50% of the funding going to abuse programs, change to 1%. She distributed amendments to the bill. (Exhibit 6) Senator Beck moved the amendments. The motion carried. Senator Beck moved HB 679 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 283: John McGray distributed amendments to HB 283. (Exhibit 7) Senator Mazurek wanted to clarify that the bill still makes a parent notify the other if he/she is moving a child's residency to another state, and the parent that receives the notice must give written consent. Senator Mazurek said the bill does say it is for joint custody cases and non-joint custody cases.

Senator Bishop wanted to know where the 30 day notice provision was. Senator Mazurek asked what happens to a parent who doesn't give a 30 day notice.

Senator Beck wanted to wait for action on HB 283 and 284. The committee will wait on action.

ACTION ON HOUSE BILL 344: Chat Smith gave written testimony to the committee. (Exhibit 8)

STANDING COMMITTEE REPORT

March 19 87
..... 19.....

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 78

Third reading copy (blue color)

Permit attachment or garnishment of workers' comp. to pay child support.
Brown (Halligan)

HOUSE BILL 78
Respectfully report as follows: That ..... No.....

1. Title, line 6.
Following: "COMPENSATION"
Strike: "LUMP-SUM"

2. Page 1, line 17.
Following: "(b)"
Strike: "to defray"
Insert: "a portion of any lump-sum award or periodic payment to pay"

3. Page 1, lines 19 and 20.
Following: "whenever" on line 19
Strike: the remainder of line 19 through "(i)" on line 20

4. Page 1, lines 22 through 25.
Following: "law" on line 22
Strike: the remainder of line 22 through "Act" on line 25

5. Page 2, line 1.
Following: "Payments"
Strike: "A LUMP-SUM PAYMENT"
Insert: "Payments"

~~XXXXX~~
DO PASS

~~XXXXXXXXX~~ CONTINUED
~~DO NOT PASS~~

Senator Mazurek Chairman.

6. Page 2, line 2.
Following: "CHAPTER"
Strike: "IS"
Insert: "are"

7. Page 2, line 3.
Following: "~~follows:~~"
Insert: "as follows:"

8. Page 2, lines 11 through 14.
Following: "payment" on line 11
Strike: the remainder of line 11 through "SUPPORT" on line 14
Insert: "(a) for any periodic payment, an amount up to the percentage amount established in the guidelines promulgated in supreme court Order No. 86-223, dated January 13, 1987; or

(b) for any lump-sum award, an amount up to that portion of the award that is approved for payment on the basis of a past-due child support obligation"

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AND AS AMENDED
BE CONCURRED IN

Senator Mazurek